

IN THE UNITED STATES DISTRICT COURT  
IN AND FOR THE DISTRICT OF SOUTH CAROLINA  
COLUMBIA DIVISION

CA NO. 3:05-CV-02858-MJP

UNITED STATES OF AMERICA, ex rel., )  
MICHAEL K. DRAKEFORD, M.D., )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
TUOMEY d/b/a TUOMEY HEALTHCARE )  
SYSTEM, INC. )  
 )  
Defendant. )

**GOVERNMENT'S SUPPLEMENTAL DISCLOSURES**

Plaintiff, the United States of America, hereby supplements  
its disclosures pursuant to Fed.R.Civ.P. 26(e):<sup>1</sup>

1. Pursuant to Fed.R.Civ.P. 26(a)(1)(A)(i), individuals  
who may have discoverable information are:

Dr. Ted Williams

Dr. Kent Cunningham

Dr. Floyd Angus

Dr. Scott R. McDuffie

Dr. David E. Brown

Dr. John Britton

Dr. Barney Williams

Dr. Thomas Hepfer

Dr. Murrell Smith

Dr. Samuel Riddle

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<sup>1</sup> Supplemental disclosures are bolded.

EXHIBIT 7

Dr. Tessa Kincade

Dr. Helen Latham

**Dr. James Goodson**

**Dr. Gregory King**

Dr. Michael Drakeford

Dr. Hans Brings

Dr. James W. Ellett

Dr. Henry P. Moses

**Dr. Steven Lauzon**

**Dr. Triz Smith**

Dr. Robert Lee

Dr. David Lovice

Dr. Paul Evangelisti

Dr. Kurt Stroebel

**Dr. Jon Stanford**

Dr. Mark Crabbe

Dr. Danny Ford

Dr. Robert Ridgeway

Patsy Royal

Greg Thompson

James Wilson

John Brabham

Gregg Martin

Jay Cox

**Paul Johnson**

**Sheri Watkins**

**Beth Luebbert**

Joel Grice

Doug Cardinal

**Kim Saccone**

Any other Cjeka Consulting employees involved  
in the rendering of opinion letters to Tuomey

Chris Caison

Greg Thompson

**Bobby Boykin**

Mark Curtis

**George Rikard**

Dr. Ken Rosefield

Ann Rickard

Robin Caples

Crystal Bishop

Jennifer Smith

Chal Glen

Dr. Charles Moss

Dr. Jerry Jackson

Lynn Lashley

Gary Koslin

Brian Odum

Dean Byrd

Donna Welch

Dr. Brandon Fites

Dr. Frank Cuce

Possible additional Operating Room personnel  
and/or Nurse Anesthetists

Greg Smith

Kevin McAnaney

**Al Pollard**

Tim Hewson

**Suzanne Odom**

**Nexsen Pruet Adams Kleemeier, LLC**  
1230 Main Street, Suite 700  
Columbia, SC 29201  
(803) 771-8900

Steven H. Pratt

**R. Terry Heath**

**Mark J. Swearingen**

**Hall, Render, Killian, Heath & Lyman**  
Suite 2000, Box 82064  
One American Square  
Indianapolis, IN 46282  
(317) 633-4884

**Richard P. Kusserow**

**Al Bassett**

**James Cottos**

**Strategic Management**

5911 Kingstowne Village Parkway, Suite 210  
Alexandria, VA 22315  
(703) 683-9600

Any other attorneys **and consultants** involved  
in the rendering of opinion letters to Tuomey

Employees of the Centers for Medicare & Medicaid Services, U.S. Department of Health & Human Services, with knowledge regarding applicable Medicare reimbursement and claims processing rules, regulations, policies, and procedures for hospitals, hospital-based outpatient surgery centers, and ambulatory surgical centers from 2003 to the present, including:

Carol Bazell, Director, Division of Outpatient Care

Lorraine Zicha, Director, Division of Institutional Claims Processing

Cindy Murphy, Technical Advisor, Division of Institutional Claims Processing

Special Agent Su Kim

**Special Agent Brian Dimler**

All members of Tuomey Board of **Trustees or Board of Directors, not previously named**, during the period of the alleged fraud

All persons named or referred to in the **Second Amended Complaint**

Various Tuomey employees not yet identified

Possible expert witnesses, yet to be named

Possible representatives of carriers, intermediaries, and/or TriCenturion with knowledge of claims submitted by Tuomey

Possible representatives of the South Carolina Medicaid program with knowledge of claims submitted by Tuomey

**All persons named or referred to by Tuomey in its disclosures pursuant to Rule 26(a) and any supplements thereto, in its Answers to the United States' First and Second Amended Complaints, and in its responses to interrogatories in this matter.**

2. Pursuant to Fed.R.Civ.P. 26(a)(1)(A)(ii), a description of documents which may be used to support the plaintiff's claims are:

All documents previously delivered by Tuomey to the United States during the investigation of this case, including but not limited to:

- All electronic and hard copy documents delivered
- Binder entitled "Tuomey Healthcare System Legal Advice"
- Tabs A, B and C (i.e., factual portions) of Binder entitled "Tuomey Healthcare System Analysis Presented to United States Department of Justice" (previously referred to as the "white paper")

All documents previously produced to the United States and Tuomey by Kevin McAnaney

All documents produced by Cjeka Consulting

Cjeka Consulting Powerpoint Presentation

All signed and proposed Part Time Employment Agreements

All Legal Opinion Letters

All Cjeka Consulting Opinion Letters

Various documents produced to the United States by Michael Drakeford, bates numbers DP 00008 - DP00241

Records supporting claims submitted to the Medicare and Medicaid Programs, including Electronic Claims data from TriCenturion and South Carolina HHS

Copies of Form 990 Tax Returns filed by Tuomey

Copies of Tuomey's Hospital Cost Reports for 2003-2006

Documents received from the following individuals: Michael Drakeford, Robert Lee, Greg Smith, Joel Grice.

Tuomey Hospital Conflict of Interest Policy

Documents received from Cross Country Healthcare

Tuomey Provider Agreement from CMS

Tuomey Medicare Application Information

Materials received from Defendant in response to requests for production of documents propounded by the United States

Documents produced in response to subpoenas issued by the parties, including documents produced by the following individuals and entities:

Womble Carlyle Sandridge & Rice, PLLC  
Dr. Michael Drakeford  
Dr. Ted Williams  
Dr. Kent Cunningham  
Dr. Floyd Angus  
Dr. Scott R. McDuffie  
Dr. John Britton  
Dr. Barney Williams  
Dr. Thomas Hepfer  
Dr. Murrell Smith  
Dr. Samuel Riddle  
Dr. Tessa Kincade  
Dr. Helen Latham  
Dr. Hans Brings  
Dr. James W. Ellett  
Dr. Henry P. Moses  
Dr. Mark Crabbe  
Dr. Jon Stanford  
Dr. Steven Lauzon  
Dr. Triz Smith  
Dr. James Goodson  
Dr. Gregory King  
Greg Thompson  
James Wilson  
Dr. Paul Evangelisti  
Dr. Kurt Stroebe  
Dr. Danny Ford  
Chris Caison  
Nexsen Pruet Adams Kleemeier, LLC  
Hall Render Killian Heath & Lyman, PC  
Strategic Management  
Douglas Cardinal  
Kim Saccone  
Health Care Appraisers, Inc.

3. Pursuant to Fed.R.Civ.P. 26(a)(1)(A)(iii), a computation of damages (note - these damage figures are preliminary, and do not include all data from the end of 2007 or any data from 2008):

**Medicare Damages:**

Estimated dollars paid by Medicare to Tuomey for the technical component and other ancillary services performed by Tuomey for the patients seen by the "Tuomey Practice Groups" on the same day of service, which appears to be as a result of the "outpatient surgeries" performed by the physicians named in the Amended Complaint:

	<b>8136 - Gastro</b>	<b>8151 - OBGYN</b>	<b>8152 - Opthamology</b>	<b>8190 - Surgical Svcs.</b>	<b>Total</b>
2005	872,565.56	14,625.67	556,225.52	451,917.89	<b>1,895,334.64</b>
2006	780,527.17	25,091.23	636,736.18	702,428.75	<b>2,144,783.33</b>
2007	670,826.49	16,983.12	487,207.70	693,588.79	<b>1,868,606.10</b>
<b>Total</b>	<b>2,323,919.22</b>	<b>56,700.02</b>	<b>1,680,169.40</b>	<b>1,847,935.43</b>	<b>5,908,724.07</b>

Estimated total dollars paid by Medicare to Tuomey as a result of referrals for designated health services by the physicians named in the Amended Complaint (these figures include the "outpatient surgery" figures above):

	<b>8136 - Gastro</b>	<b>8151 - OBGYN</b>	<b>8152 - Opthamology</b>	<b>8190 - Surgical Svcs.</b>	<b>Total</b>
2005	3,461,938.03	234,046.89	568,574.20	6,004,235.22	<b>10,268,794.34</b>
2006	3,329,457.63	160,801.48	654,292.37	5,783,431.41	<b>9,927,982.89</b>
2007	2,636,904.86	134,451.16	502,541.80	5,520,549.72	<b>8,794,447.54</b>
<b>Total</b>	<b>9,428,300.52</b>	<b>529,299.53</b>	<b>1,725,408.37</b>	<b>17,308,216.35</b>	<b>28,991,224.77</b>

Estimated number of claims presented by Tuomey to Medicare for designated health services referred by the physicians named in the Amended Complaint (for calculation of penalties):

	<b>8136 - Gastro</b>	<b>8151 - OBGYN</b>	<b>8152 - Opthamology</b>	<b>8190 - Surgical Svcs.</b>	<b>Total</b>
2005	3,143	809	906	1,513	<b>6,371</b>
2006	3,153	717	967	1,540	<b>6,377</b>
2007	2,477	443	746	1,407	<b>5,073</b>
<b>Total</b>	<b>8,773</b>	<b>1,969</b>	<b>2,619</b>	<b>4,460</b>	<b>17,821</b>



**Medicaid Damages:**

Estimated dollars paid by Medicaid to Tuomey for the technical component and other ancillary services performed by Tuomey for the patients seen by the "Tuomey Practice Groups" on the same day of service, which appears to be as a result of the "outpatient surgeries" performed by the physicians named in the Amended Complaint:

	8136 - Gastro	8151 - OB-GYN	8152 - Ophthalmology	8190 - Surgical Svcs.	Total
2005	377,653.69	1,612,395.76	58,776.95	498,160.66	2,546,987.06
2006	357,264.01	1,694,849.81	68,417.13	741,115.60	2,861,646.55
2007	136,800.82	814,649.71	32,878.88	247,483.27	1,231,812.68
<b>Total</b>	<b>871,718.52</b>	<b>4,121,895.28</b>	<b>160,072.96</b>	<b>1,486,759.53</b>	<b>6,640,446.29</b>

(Note: The United States has not yet been able to calculate the total Medicaid Damages for all designated health services referred by the physicians named in the Amended Complaint)

Estimated number of claims presented by Tuomey to Medicaid for designated health services referred by the physicians named in the Amended Complaint (for calculation of penalties):

	8136 - Gastro	8151 OBGYN	8152 - Ophthalmology	8190 - Surgical	Total
2005	842	4,215	246	428	5,731
2006	656	4,006	330	585	5,577
2007	386	2,174	134	283	2,977
<b>Total</b>	<b>1,884</b>	<b>10,395</b>	<b>710</b>	<b>1,296</b>	<b>14,285</b>

**The United States further supplements its disclosure regarding computation of damages by incorporating herein the computations in the report of Steck Consulting, LLC, of March 16, 2009.**

4. Pursuant to Fed.R.Civ.P. 26(a)(1)(A)(iv), there are no insurance policies relevant to this action in the ownership, possession, custody or control of the United States; however the United States requests copies of any relevant insurance policies owned by, paid for by, or in the possession, custody or control of the defendant or any of its officers, directors or employees.

5. Pursuant to Fed.R.Civ.P. 26(a)(2), individuals the Plaintiff may use at trial to present expert testimony are:

Kathleen A. McNamara  
Myers & Stauffer LC  
6205 NW 94th St.  
Johnston, IA 50131  
(515) 259-4082

Ms. McNamara is expected to testify on the fair market value and commercial reasonableness of physician compensation arrangements entered into by the Defendant with the physicians identified in Paragraph 79 of Plaintiff's Second Amended Complaint.

Ruben Steck  
1730 Rhode Island Ave, NW, Suite 200  
Washington, DC 20036  
(202) 887-0190

Mr. Steck is expected to testify regarding Medicare and Medicaid claims submitted by Defendant related to the physicians identified in Paragraph 79 of Plaintiff's Second Amended Complaint.

Respectfully submitted,

MICHAEL F. HERTZ  
Deputy Assistant Attorney General

/s/ NIAL M. O'DONNELL (for)

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/S/ NIALL M. O'DONNELL

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Date: \_\_\_\_\_

Attorneys for the United States

CERTIFICATE OF SERVICE

I do hereby certify that I have this 22nd day of April, 2009, served a copy of the foregoing upon the below-listed parties electronically or by placing a copy of the same in the U.S. Mails, addressed as follows:

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/S/ NIAL M. O'DONNELL  
Trial Attorney